

Side-by-side comparison of “aggravating factors” in 2016 Minn. Laws ch. 160 § 2; “major controlled substance offense” as proposed in the 2016 MSGC Report to the Legislature for inclusion in § 2.D.3.b(5) of the August 1, 2016, Minnesota Sentencing Guidelines; and “major controlled substance offense” as defined in Minn. Stat. § 244.10, subd. 5a(5). The statutory sequence has been altered to facilitate comparison.

2016 Minn. Laws. ch. 160	2016 MSGC	Minn. Stat. § 244.10
Aggravating factor. Each of the following is an “aggravating factor”:	The offense was a major controlled substance offense, identified as an offense or series of offenses related to trafficking in controlled substances under circumstances more onerous than the usual offense. The presence of two or more of the circumstances listed below is an aggravating factor with respect to the offense:	the offense was a major controlled substance offense, identified as an offense or series of offenses related to trafficking in controlled substances under circumstances more onerous than the usual offense. The presence of two or more of the circumstances listed below are aggravating factors with respect to the offense:
(2) the offense was committed for the benefit of a gang under section 609.229 ;		
(5) the offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to sell or transfer;	(a) the offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to sell or transfer;	(i) the offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so
(10) the defendant or an accomplice possessed equipment, drug paraphernalia, documents, or money evidencing that the offense involved the cultivation, manufacture, distribution, or possession of controlled substances in quantities substantially larger than the minimum threshold amount for the offense.	(b) the offender or an accomplice possessed equipment, drug paraphernalia, or monies evidencing the offense was committed as part of wholesale trafficking of a controlled substance;	(ii) the offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use;
	(c) the offense involved the manufacture of controlled substances for use by other parties;	(iii) the offense involved the manufacture of controlled substances for use by other parties;
	(d) the offender or an accomplice knowingly possessed a firearm or other dangerous weapon, as defined by Minn. Stat. § 609.02 , during the commission of the offense;	(iv) the offender knowingly possessed a firearm during the commission of the offense;

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(6) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy;	(e) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy;	(v) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy;
(4) the offense involved the transfer of controlled substances across a state or international border and into Minnesota;	(f) the offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement;	(vi) the offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or
(7) the defendant used a position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationships;	(g) the offender used his or her position or status to facilitate the commission of the offense, including positions of trust, confidence or fiduciary relationships (e.g., pharmacist, physician or other medical professional);	(vii) the offender used the offender's position or status to facilitate the commission of the offense, including positions of trust, confidence, or fiduciary relationships
(3) the offense involved separate acts of sale or possession of a controlled substance in three or more counties;	(h) the offense involved separate acts of sale or possession of a controlled substance in three or more counties;	
(1) the defendant, within the previous ten years, has been convicted of a violent crime, as defined in section 609.1095 , subdivision 1, paragraph (d), other than a violation of a provision under this chapter, including an attempt or conspiracy, or was convicted of a similar offense by the United States or another state;	(i) the offender has a prior conviction for a crime of violence, as defined in Minn. Stat. § 609.1095 , subd. 1(d), other than a violation of a provision under Minn. Stat. chapter 152, including attempt or conspiracy, or was convicted of a similar offense by the United States or another state;	
(8) the offense involved the sale of a controlled substance to a person under the age of 18 or a vulnerable adult as defined in section 609.232 , subdivision 11;	(j) the offense involved the sale of a controlled substance to a minor or vulnerable adult; and	
(9) the defendant or an accomplice manufactured, possessed, or sold a controlled substance in a school zone, park zone, correctional facility, or drug treatment facility; or	(k) the defendant, or an accomplice, manufactured, possessed or sold a controlled substance in a school zone, park zone, public housing zone, federal, state, or local correctional facility, or drug treatment facility.	